

CIVIL SECOND APPEAL No. 88 of 2005

GULABCHAND

V/S

RATAN DAGA

Mr. SURESH SHRIMALI, for the appellant / petitioner

Date of Order : 21.3.2005

HON'BLE SHRI N P GUPTA, J.

ORDER

Heard learned counsel for the appellant.

The two learned Courts below have passed the decree for eviction on the ground of reasonable and bonafide necessity, finding the elements of comparative hardship, and partial eviction also in favour of the appellant by deciding issues no.2, 3 and 4 in favour of the plaintiff.

I have gone through the findings recorded being pure findings of fact, and that are not shown to be vitiated on any of the grounds available under Section 100 CPC.

The appeal thus does not involve any substantial question of law. The same is, therefore, dismissed summarily.

At the request of the learned counsel for the appellant, the appellant is given one and a half years' time to vacate the suit premises on the condition that the defendant gives an undertaking before the learned trial court within four weeks from today that on or before the expiry of the above period, he will peacefully hand over the vacant possession of the suit premises to the plaintiff and that during this period, he will not, in any manner, transfer the possession of the suit premises to anybody. Likewise, the entire decretal amount, so also all arrears of rent, if any, shall be deposited by the appellant in the trial court within one month from today and shall further continue to deposit amount equal to the monthly rent by way of damages for use and occupation by 15th of each succeeding month, till the actual delivery of possession. In case the appellant fails to comply with any of the above conditions, the respondent will become automatically entitled to execute the decree forthwith.

(N P GUPTA), J.

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